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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BLAIR, DOUGLAS B

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/569,569	Applicant(s) COX ET AL.	
	Examiner DOUGLAS B. BLAIR	Art Unit 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

Applicant's arguments filed 8/23/2010 have been fully considered but they are not persuasive.

With respect to the 101 rejection, the Examiner understands the applicant's argument but feels that the claims present ambiguity because it is not clear that the "controlling" and "permitting" actions are intended to be part of the claimed method. With the current punctuation of the claim it appears that these actions are just elements as part of the claimed system that the charging method is related to but not necessarily part of the business method itself. The examiner recommends the following amendment, adding a semicolon, to remove ambiguity:

11. (Currently Amended) A business method, the method comprising: charging clients for access through a computer server to a system comprising a plurality of host computers and enabling client computers m access via the Internet the system comprising a plurality of host computers through the computer server, each of the plurality of host computers having access to a local phone service through a local phone line; the computer server controlling client computer access to the plurality of local phone services through the local, phone lines; and permitting the access by a client computer upon verification of access rights of the client computer, wherein the server routes an Internet user phone call through the Internet to a host computer that is in the local, area of the destination of the phone call so that the phone call proceeds

Art Unit: 2442

through the local phone service of the host computer that is in the local area via the local phone line of the host computer that is in the local area.

This amendment to claim 11 will be entered after final if presented by itself.

As to the arguments against U.S. Patent Number 7,123,608, they are not persuasive. The applicant argues that the '608 patent has not leveraging of local phone lines and services of host computers.

The following is the extent of the applicant's disclosure on leveraging local phone lines beginning at page 2, line 16 of the applicant's specification:

A host machine or banks of host machines are connected to telephone systems in the local geographic area. For all intents and purposes, a client makes use of phone services from anywhere with an internet connection as if the client was using a phone connection in the local geographic area. This powerful tool has many business applications.

A preferred system of the invention enables people to use their PCP (POTS, cell, PBX) phone connection(s) from anywhere that an Internet connection is available. The system provides the functionality of a cellular phone to people connecting to the internet through wireless device(s). Selective routing of calls allows a phone connection to be conveniently shared by multiple interact users. The system is capable of minimizing long-distance or toll charges by locating and using the BPLAP which may contact the destination PCP phone with the lowest charge or toll. Conversely, a PCP phone may call the BPLAP which will incur the lowest toll or long-distance charge.

The applicant's specification basically states that using the internet to connect calls to local phone services to the destination is a good way of saving long distance charges. The applicant's disclosure makes no attempt to explain how one would go about determining which route would connect to a local phone service to the destination.

The Examiner contends that the previously cited col. 2, lines 27-39 of U.S. Patent 7,123,608 to Scott, explicitly states that the concept of leveraging local phone services as disclosed by the applicant is obvious. Col. 2, lines 27-39 of Scott:

Art Unit: 2442

Next, gateway 110 contacts destination gateway 130 over IP network 120. Destination gateway 130 dials the destination phone number over a PSTN line to the destination phone 140. Gateway 110 then packetizes the voice stream from the PSTN and routes it over IP network 120 to gateway 130. Destination gateway 130 converts the data packets into a voice stream and sends it over a PSTN line to the called party at phone 140. **By strategically locating gateways, such as gateways 110 and 130, in desired calling areas long-distance costs are substantially reduced. Indeed, a long-distance call is essentially replaced by two local phone calls and a low cost IP connection.**

The applicant's specification does not put the public into any detail regarding the claimed invention that is not already clearly disclosed and made obvious by the references used in the rejection and therefore is not patentable.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The claimed method including step of charging is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. For example, charging could be

Art Unit: 2442

completed by any person demanding money in an accounting capacity without the use of a machine.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,144,667 to Doshi et al. in view of U.S. Patent Number 7,123,608 to Scott.

As to claim 1, Doshi teaches a method for providing telephony services through the Internet, the method comprising steps of: by a server available through the Internet (**col. 6, lines 20-25, the voice/data network gateway 120 is a server accessible via the Internet**), communicating with a plurality of hosts, each host being connected to a local phone service via a local phone line to the server via the Internet (**Figure 1A, the voice switches are the hosts**), the server communicating with clients through the Internet to provide clients access to local phone services and communications through the local phone lines of the plurality of hosts (**col. 6, lines 43-50**); however Doshi does not explicitly teach a method wherein the server routes an Internet user phone call through the Internet to a host computer that is in the local area of the destination of the phone call so that the phone call proceeds through the local phone service of the host computer that is in the local area via the local phone line of the host computer that is in the local area.

Art Unit: 2442

Scott shows the benefits of using a local gateway to bypass long distance charges when connecting a call via the internet (col. 2, lines 27-36).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Doshi regarding providing phone services via a server over the Internet with the teachings of Scott regarding the use of a local gateway to bypass long distance service because doing so generally makes a call cheaper (See col. 2, lines 27-36 of Scott).

As to claim 2, the voice/data network gateway 120 reads on the claimed server for the same reason indicated in the rejection of claim 1.

As to claim 3, Doshi teaches the server of claim 2, wherein the server computer is configured to provide one or more of the following services: authentication, tunneling, initiation of peer-to-peer communication, routing, directory, directory search, and access rights (Summary of Invention).

As to claim 4, the voice switches read on the claimed hosts for the same reason indicated in the rejection of claim 1.

As to claim 6, Doshi teaches the host of claim 4, wherein the server controls client access to the host (col. 6, lines 12-53).

As to claim 7, Doshi teaches the host of claim 6, wherein the server is configured to provide one or more of the following services: directory search, voicemail and missed calls, call answering, and call initiation (call answering).

Art Unit: 2442

As to claim 8, it is rejected for the same reasoning as claim 1.

As to claim 9, Doshi teaches the client of claim 8, wherein the client device is configured to provide one or more of the following services: phone line interface, authentication, verification, call forwarding, call answering, voice mail and missed calls, and local-call routing (call answering).

As to claim 10, it is rejected for the same reasoning as claim 1.

As to claim 11, it is rejected for the same reasoning as claim 1. The third paragraph of the summary discusses charging in the broad context claimed by the applicant.

As to claim 12, it is rejected as indicated in the preceding rejections.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2442

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Asad Nawaz can be reached on (571) 272-3988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/
Primary Examiner, Art Unit 2442